

REMARKS

In the Advisory Action dated March 19, 2009, the Examiner notes that the amendments raise new issues. THAT IS TOTALLY INCORRECT. THE EXAMINER IN FACT RAISED THE ISSUE AND THE AMENDMENTS SIMPLY RESPOND TO THE SPECIFIC ISSUE RAISED BY THE EXAMINER IN THE FINAL REJECTION. The amendments also corrected informalities that the Examiner himself wanted corrected. Other than correcting those informalities, the amendments SIMPLY RESPOND TO AND OBVIATE AN ISSUE FIRST RAISED BY THE EXAMINER. The Examiner raised the NEW ISSUE in the final rejection saying that there is nothing in applicant's claims to indicate that the side wall can't have a ledge. Applicant should, at the very least, be allowed to respond to the Examiner's incorrect supposition by amending the claims to provide specific language that positively sets forth that the side wall can not have a ledge. That procedure simply obviates the new issue THAT WAS FIRST RAISED BY THE EXAMINER HIMSELF IN THE FINAL REJECTION.

But if the Examiner and his supervisor continue to refuse entry of the previous amendment, then the unamended claims as they stand should be allowed. The unamended claims as they stand are inappropriately rejected over the Honstein reference. In the Advisory Action, the Examiner notes that "Honstein discloses the

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structure as claimed despite some terminology and has a side wall that does end up extending upwardly from the perimeter of the base which may be torn away from the base by the frangible members described in paragraph 12(underlining added)." It is respectfully requested that both the Examiner and his supervisor honestly pay some attention and respect to the underlined portion of the previous sentence because the portion of the underlined section that states that the side wall "can be torn away from the base by the frangible members" IS TOTALLY ERRONEOUS AND ACTUALLY COMPLETELY IMPOSSIBLE. Simply put, in about as clear and plain language as there can be, THE SIDE WALL OF HONSTEIN CANNOT BE TORN AWAY FROM THE BASE BY THE FRANGIBLE MEMBERS, AT LEAST WITHOUT TOTALLY DESTROYING THE DEVICE FOR ITS INTENDED USE.

And it is respectfully submitted that the Patent Office cannot interpret a prior art device in such a way that would totally destroy the device for its intended use. The Examiner and his supervisor are referred to In re Gordon, 733 F.2d 900, 902 (Fed. Cir. 1984) and In re Kramer, 925 F.2d 1479 (Fed. Cir. 1991) wherein the CAFC concluded very pointedly that it is improper to suggest modification of a device where the modification would render the device inoperable for its intended purpose.

As has been pointed out in previous responses, if the side

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walls of the tray of the Honstein reference could somehow be torn away, it would render the tray totally useless. Those side walls of the tray of the Honstein reference contain necessary and essential registration ribs 49 and grooves 50 which are needed for the poured model to be returned to the tray after being removed therefrom, such that the poured model and individual segments thereof which are cut from it when it is removed are returned to exact pre-existing locations within the tray. If those side walls were torn away and removed, there would be absolutely no way of returning the poured model and individual segments cut therefrom to the tray in exact pre-existing locations within the tray. It is certainly not even obvious, let alone an anticipation, to modify a device of a reference so as to render the device TOTALLY USELESS for its intended purpose.

In Honstein, the inner portion of the base, that is, the inner area surrounded by the frangible members, is broken away from the outer portion of the base, that is, the portion of the base lying outside of those frangible members. That broken away inner portion is then used to push the poured mold upwardly out of the side walls of the tray so that the mold is removed from the tray. The mold is then sectioned into individual segments, and all the resulting segments of the mold are returned into the tray so as to be held ON THE REMAINING PORTION OF THE BASE THAT

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IS STILL ATTACHED TO THE SIDE WALLS, WITH THE INDIVIDUAL SEGMENTS FURTHER BEING HELD IN THEIR PROPER PLACE BY THE SIDE WALLS OF THE TRAY.

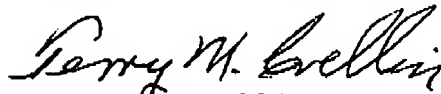
The side walls are essential for two separate reasons. First, the side walls must hold and retain the remaining portion of the base attached to them so that the remaining portion of the base will prevent the individual segments from falling completely out of the otherwise open bottom of the tray. Second, the side walls are essential in holding the individual segments in their proper space and relationship with each other when they are returned to the tray. The side walls MUST be retained to provide proper positioning of the individual segments of the mold. As pointed out above, if the side walls were torn away and removed, that would render the device TOTALLY USELESS for its intended purpose.

Now, if the Examiner and his supervisor want to argue this point further on appeal, applicant will unfortunately be forced to do so. Otherwise, the Examiner and his supervisor can render an honest, non-biased opinion, and they can withdraw all the present rejections and issue a notice of allowance of the unamended claims as they stand. In that case, applicant would then unfortunately be forced to make an amendment after allowance to correct the formal matters that were addressed in the previous

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Amendment and Response which the Examiner and his supervisor have refused to enter. The most sensible way of resolving this matter is for the Examiner and his supervisor to simply enter the previous amendments, and then issue a well deserved notice of allowance of the amended claims.

Respectfully submitted,



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